IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	)	
Christopher A. Adkins, et al.	)	Group: 3621
Serial No.: 10/625,383	)	
Filed: July 23, 2003	)	
Title: METHOD FOR PROVIDING IMAGING	)	
SUBSTANCE FOR USE IN AN IMAGING DEVICE	)	
VIA A VIRTUAL REPLENISHMENT	)	Examiner: E. Augustin

REPLY TO EXAMINER'S ANSWER

MS APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The present Reply is in response to the Examiner's Answer, dated October 13, 2006. The present Reply is related to Appellants' appeal of the decision of the Examiner, August 16, 2005, finally rejecting claims 1-90, all of the claims that are under consideration in the above-captioned patent application.

I. STATUS OF CLAIMS

Pending: 1-90.

Canceled: None

Allowed: None.

Objected To: None.

Rejected: 1-90.

Withdrawn from Consideration: None.

On Appeal: 1-90.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 1-24, 29-54, 59-70, and 75-86 were rejected under 35 U.S.C. §103(a) as unpatentable over Takemoto, et al., U.S. Patent Application Publication No. 2002/0012541 A1 (hereinafter, Takemoto), in view of Ruder, U.S. Patent No. 4,967,207 (hereinafter, Ruder).

B. Claims 25-28, 55-58, 71-74, and 87-90 were rejected under 35 U.S.C. §103(a) as being unpatentable over Takemoto in view of Walmsley, Simon Robert, U.S. Patent No. 6,816,968 B1 (hereinafter, Walmsley).

III. ARGUMENT

A. REPLY TO EXAMINER'S CONTENTIONS OF RESPONSE 1

In response to the Examiner' specific assertion in "Response 1" (bottom of page 5 to upper portion of page 7 of the Examiner's Answer) that the prior art discloses virtual toner replenishment of an imaging substance and an imaging device containing an actual amount and a surplus amount of imaging substance, Appellants respectfully submit as follows, using claim 1 as an exemplary claim in replying to the Examiner's assertions:

Appellants' claim 1 is directed to a method for providing a virtual replenishing of a supply item with an imaging substance, and recites, in part, providing a first supply item containing an actual supply of the imaging substance, the actual supply including a licensed amount of the imaging substance and a surplus amount of the imaging substance.

Claim 1 also recites, in part, wherein if the verification key received from the database corresponds to the first key stored in the memory associated with the first supply item, then performing the step of allocating at least a portion of the surplus amount of the imaging substance contained in the first supply item for use.

The Examiner relies on Takemoto at page 4, paragraph 73 for the surplus amount of imaging substance, and otherwise relies on Takemoto at page 14, paragraphs 222-223; page 15, paragraphs 232, 238, and 240-242; and page 16, paragraph 243.

In contrast to providing a first supply item containing an actual supply of the imaging substance, the actual supply including a licensed amount of the imaging substance *and* a surplus amount of the imaging substance, Takemoto discloses a supply item (the cartridge) having a portion of which may be used prior to obtaining the license, e.g., 70%, whereas if the license is

paid for, the user may use the full amount of the toner, i.e., 100% (page 14, 221 to page 16 paragraph 244, Figs. 6-9, in particular, Figs. 6 and 9).

For example, Takemoto discloses that after the cartridge is installed, it is determined whether or not the cartridge is licensed ("license available") or "not licensed" (Fig. 6, and page 14, paragraphs 221-224). If the cartridge is not licensed, the user is asked to pay the fee (Fig. 6, page 14, paragraph 225).

If the user answers "will pay," electronic settlement is performed in one of two possible manners, as follows: If the user has an electronic settlement account, "electronic settlement course A" depicted in Fig. 7 is employed, rendering the licensing status of the cartridge as "license available" (Fig. 7, page 14, paragraph 226 to page 15, paragraph 229).

If the user does not have an electronic settlement account, settlement is performed via "step B," depicted in Fig. 8, wherein the printer is allowed to operate under a "provisional license available" status for two months ("Elapse of Two Months" indicated in Fig. 8) until the settlement is completed, after which the license status of the cartridge becomes "license available" if the settlement is completed, or becomes "not licensed" if the settlement is not completed (Fig. 8, page 15, paragraphs 231-233).

If the user does not choose to pay, the user is asked to accept that functions will be restricted (page 15, paragraph 234).

If the user accepts that "Part of functions will be restricted," and the cartridge is "not licensed," operation of the printer stops when the residual toner amount reaches 30% (page 15, paragraphs 239 and 240, Fig. 9), explained as follows: When the residual toner level reaches 50%, a check is performed via the network to determine if a license is available, the user is again

offered the opportunity to pay the fee, and if the user refuses, and the license status is "not licensed yet," the printer operation is stopped when the toner level reaches 30%, and the user is instructed to get a license immediately or exchange the cartridge (page 15, paragraph 241 to page 16, paragraph 243, Fig. 9).

Thus, Takemoto discloses that the toner cartridge may be used without a license until 30% residual toner remains, that is, that 70% of the toner may be used without a license. If the license is obtained (i.e., if the user does not refuse to pay the fee), printer operation is not stopped, and hence, the remaining 30% may be used.

Accordingly, Appellants respectfully submit that there is simply no Takemoto surplus toner amount in excess of the licensed amount, wherein if a verification key received from a database corresponds to a first key stored in a memory associated with the first supply item, the step of allocating at least a portion of the surplus amount of imaging substance contained in the first supply item for use may be performed, since once a license is obtained, all of the Takemoto toner may be used.

In addition, Appellants have reproduced as follows the Takemoto passage at page 4, paragraph 73, relied upon for a surplus amount of imaging substance:

> [0073] (2-16) In the control method for the image forming apparatus described in paragraph (2-14) or (2-15), the process cartridge comprises a toner containing process and a residual toner detecting process that detects the amount of toner remaining in the toner containing process, and when the residual toner detecting process detects the predetermined amount of residual toner, the control process controls the image forming apparatus so as to restrict or stop the functions.

Appellants respectfully submit that the relied-upon Takemoto passage does not disclose, teach, or suggest a surplus amount of imaging substance, but rather, discloses that the Takemoto apparatus detects the amount of toner remaining, e.g., a residual amount of toner, but does not

disclose, teach, or suggest that the residual amount of toner is a surplus amount of toner within the context of Appellants' claimed invention.

For example, although the Examiner relies on a Merriam-Webster definition for the word, "surplus," Appellants respectfully submit that the meaning for the word, "surplus," is set forth in their specification, which should be used in interpreting Appellants' claims. For example, Appellants' specification provides as follows:

> In practicing the present invention, preferably, the initial, i.e., actual, supply amount (fill level) of imaging substance contained in supply item 26 is greater than the licensed amount of the imaging substance. For example, the actual supply amount may include both a licensed amount of the imaging substance and a surplus amount of the imaging substance, with the surplus amount being used to accommodate license renewals or new licenses. For example, in one implementation of the invention, the initial supply amount of the imaging substance contained in supply item 26 can be, for example, at least two times greater than the licensed amount. It is important to note, however, that while the initial amount of imaging substance supplied with imaging device 12 and/or supply item 26 is more than sufficient to accommodate one or more license renewals, or new licenses, the consumer has been required to pay only for the licensed amount of imaging substance at the time of the original purchase. (Page 6, line 29 to page 7, line 7, emphasis added).

Appellants respectfully submit that the Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 [70 USPQ2d 1827] (Fed. Cir. 2004).

From the above quote of Appellants' specification, it is clear that the "surplus" amount recited in Appellants' claims is an amount sufficient to accommodate one or more license renewals or new licenses, not simply a residual amount that is an amount that remains when a use or need is satisfied, as asserted by the Examiner.

Takemoto simply does not disclose, teach, or suggest a surplus amount of toner within the context of Appellants' specification and claims, since Takemoto does not disclose, teach, or suggest a surplus amount sufficient to accommodate one or more license renewals or new licenses. Rather, as set forth above and in Appellants' Brief, Takemoto discloses that 70% of the toner may be used without a license, leaving 30% left that may be used only if a license is obtained. For example, once the Takemoto license is obtained, 100% of the Takemoto toner may be used, leaving no toner left that may be used to virtually replenish the cartridge upon a license renewal or upon receiving a new license.

Even if the initial 70% of toner were to be considered a licensed amount (although Takemoto clearly discloses that the 70% amount - which is the difference between the full 100% original amount of toner and the 30% residual when the printer operations are stopped if there is no license - is the limit of toner usage where there is not a license – see Takemoto at page 15, paragraphs 239-242, page 16, paragraph 243), the remaining 30% is clearly not enough to accommodate one or more license renewals, since it is less than half of the asserted licensed amount, which is 70%, and hence, insufficient to accommodate even one license renewal or new license.

In addition, the Examiner asserts that a provisional license for two months provides a licensed amount, and that the residual amount is a surplus amount. However, Appellants respectfully submit that the asserted provisional license would still pertain to 70% toner usage, leaving the asserted surplus as being 30% residual toner, which is not enough to accommodate one or more license renewals or new licenses, since the asserted licensed amount pertains to 70% toner usage, whereas the asserted surplus amount is only 30%.

Accordingly, Takemoto does not disclose, teach, or suggest a virtual replenishment that includes providing a first supply item containing an actual supply of the imaging substance, the actual supply including a licensed amount of the imaging substance and a surplus amount of the imaging substance, as recited in claim 1.

In addition, as set forth in their Brief, in contrast to a first supply item containing an actual supply of the imaging substance, the actual supply including a licensed amount of the imaging substance *and* a surplus amount of the imaging substance, any corresponding Ruder surplus amount is not contained in the first supply item, but rather is contained *in a another device*, which is the Ruder colorant supply bottle 56.

Further, Ruder employs a separate colorant supply bottle to physically replenish the corresponding first supply item (reservoir container 14), in contrast to virtual replenishing.

Appellants respectfully submit that MPEP 2142 provides that to establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

However, as set forth above, Takemoto and Ruder, taken alone or in combination, do not disclose, teach, or suggest all of the limitations of Appellants' claimed invention of virtual replenishing of a supply item, including providing a first supply item containing an actual supply of imaging substance, the actual supply including a licensed amount of the imaging substance and a surplus amount of the imaging substance.

B. REPLY TO EXAMINER'S CONTENTIONS OF RESPONSE 2

In response to the Examiner' specific assertion in "Response 2" (bottom portion of page 7 of the Examiner's Answer) that Takemoto discloses comparing the toner's serial number with the

plurality of serial numbers in a database, using claim 1 as an exemplary claim in replying to the Examiner's assertions:

Claim 1 recites, in part, communicating to a database a first serial number associated with said first supply item; comparing said first serial number with a plurality of serial numbers stored in said database.

The Examiner asserts that the Takemoto license server compares a received serial number that corresponds to actual license information of the toner cartridge requesting licensing, relying on Takemoto from page 13, paragraph 211 to page 14, paragraph 223.

However, Appellants respectfully submit that none of the relied-upon Takemoto passages disclose, teach, or suggest communicating to a database a first serial number associated with the first supply item; and comparing the first serial number with a plurality of serial numbers stored in the database.

For example, paragraph 211 discloses that a comparing means compares license information with identification information by associating the identification information of the process cartridge that is loaded into the apparatus with the license information received from the license granting server.

The comparing means is part of the Takemoto image forming apparatus 100 (comparing means 15 in Fig. 1), and is not located in server 81 – see Fig. 5.

Thus, in contrast to communicating to a database a first serial number associated with the first supply item; and comparing the first serial number with a plurality of serial numbers stored in the database, Takemoto paragraph 211 discloses comparing license information with identification information based on license information received from a server.

Takemoto paragraph 212 discloses that the comparing means of the image forming apparatus compares license information received via the network with electronic information, which also does not disclose, teach, or suggest communicating to a database a first serial number associated with the first supply item; and comparing the first serial number with a plurality of serial numbers stored in the database.

Takemoto paragraph 213 also discloses that the comparing means of the image forming apparatus compares license information received via the network with electronic information, which also does not disclose, teach, or suggest communicating to a database a first serial number associated with the first supply item; and comparing the first serial number with a plurality of serial numbers stored in the database.

Takemoto paragraphs 214-219 are completely silent as to communicating to a database a first serial number associated with the first supply item; and comparing the first serial number with a plurality of serial numbers stored in the database.

Takemoto paragraph 220 discloses that comparing means 15 of the image forming apparatus 100 compares license information received via the network by license information receiving means 72 with electronic information corresponding to the license information, which also does not disclose, teach, or suggest communicating to a database a first serial number associated with the first supply item; and comparing the first serial number with a plurality of serial numbers stored in the database.

Paragraphs 221 and 222 are completely silent as to communicating to a database a first serial number associated with the first supply item; and comparing the first serial number with a plurality of serial numbers stored in the database.

Paragraph 223 discloses that the identification information is compared with the license presence/absence judgment information in license server 81.

Thus, rather than comparing a first serial number with a plurality of serial numbers, Takemoto paragraph 223 discloses comparing identification information with license presence/absence information. However, Takemoto does not disclose, teach, or suggest that the license presence/absence information is a plurality of serial numbers.

In addition, paragraph 223, as well as the other relied-upon paragraphs 211-222, do not disclose, teach, or suggest that the use of a database, much less comparing the first serial number with a plurality of serial numbers stored in a database.

The Examiner asserts that it is well established in the art "that a database is a collection of data organized search and retrieval," and that it is inherent that "comparing data received from a network with data in a server has to be done via [a] database." (Emphasis added).

However, without regard to what a database is, Takemoto simply does not disclose, teach, or suggest a database used in the manner as claimed by Appellants, such as communicating to a database a first serial number associated with the first supply item; and comparing the first serial number with a plurality of serial numbers stored in the database.

Nor is it inherent that comparing data received from a network with data in a server has to be done via a database, as asserted by the Examiner. For example, it is well known in the art that data received via a network may be compared with data stored in a simple memory register of a server and with without any use whatsoever of a database.

To establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations (MPEP 2142).

However, Takemoto does not disclose, teach, or suggest all of Appellants' claimed limitations, including, comparing the first serial number with a plurality of serial numbers stored in a database.

Rather, Takemoto discloses comparing license information with identification information, comparing license information with electronic information corresponding to the license information, and comparing identification information with license presence/absence information, none of which disclose, teach, or suggest comparing the first serial number with a plurality of serial numbers, and does not disclose, teach, or suggest that the comparisons are made with values in the form of a plurality of serial numbers that are stored in a database.

Ruder does not overcome the deficiency of Takemoto as applied to claim 1, nor does the Examiner assert as much.

Accordingly, Takemoto and Ruder, taken alone or in combination, do not disclose, teach, or suggest communicating to a database a first serial number associated with the first supply item; and comparing the first serial number with a plurality of serial numbers stored in the database.

C. REPLY TO EXAMINER'S CONTENTIONS OF RESPONSE 3

In response to the Examiner' specific assertion in "Response 3" (upper portion of page 8 of the Examiner's Answer) that Takemoto discloses that the license information (second data) includes a verification key, using claim 1 as an exemplary claim in replying to the Examiner's assertions:

Claim 1 recites, in part, receiving from said database one of a first data indicating non-correspondence between said first serial number with one of said plurality of serial numbers and a

second data indicating correspondence between said first serial number with one of said plurality of serial numbers, wherein said second data includes a verification key.

The Examiner asserts that the Takemoto the "licensing information is the mechanism used, just like the verification key described by [A]ppellant, to authenticate or verify the serial number of the toner," relying on Takemoto page 7, paragraph 121, page 9, paragraphs 150, 151, page 11, paragraph 176, and page 14, paragraph 223.

Appellants respectfully disagree that Takemoto discloses receiving from the database one of a first data indicating non-correspondence between the first serial number with one of the plurality of serial numbers and a second data indicating correspondence between the first serial number with one of the plurality of serial numbers, wherein the second data includes a verification key.

In addition, Appellants respectfully disagree that the Takemoto licensing information is a mechanism used to authenticate or verify the serial number of the toner. For example, Takemoto defines the license information as follows:

> Here, the license information is the information that indicates whether all the functions of the image forming apparatus in which a certain process cartridge is loaded are usable or not. More specifically, the license information, as numbers or signs indicating the process cartridge to be "license available" or "not licensed", is preferably computerized. Further, the license information is essentially the information indicating the process cartridge to be "license available" or "not licensed", and may further include the license presence/absence judgment information and the usage fee settlement status information for the process cartridge. Furthermore, the license information may include the information such as an electronic signature and ID information, which is used for identifying the license information (paragraph 150, bridging pages 8 and 9, emphasis added).

Thus, although Takemoto discloses that the license information indicates that the process cartridge to be "license available" or "not licensed", and may include license presence/absence

judgment information and the usage fee settlement status information for the process cartridge, as well as an electronic signature and ID information, which is used for identifying the license information, Takemoto does not mention or otherwise disclose, teach, or suggest that the license information is used to authenticate or verify the serial number of the cartridge, as asserted by the Examiner.

Takemoto paragraph 151 (page 9) provides that the license presence/absence information is compared with the identification information in a server, which clearly does not disclose, teach, or suggest that the license information includes a verification key.

Nor does Takemoto mention or otherwise disclose, teach, or suggest that the license information is second data indicating correspondence between the first serial number with one of the plurality of serial numbers, wherein the second data includes a verification key, as recited in claim 1, wherein the Takemoto license information is asserted to be the recited "second data."

Appellants have reproduced the relied-upon Takemoto passage at page 7, paragraph 121, as follows:

> [0121] (2-64) I n the administrating method for the image forming apparatus described in above paragraph (2-63), the license information is encrypted, and a decrypting process to decrypt the encrypted license information is provided.

Appellants respectfully submit that although the relied-upon Takemoto passage at page 7, paragraph 121 indicates that the license information is encrypted, and that a decrypting process to decrypt the encrypted license information is provided, such a disclosure clearly does not mention or otherwise disclose, teach, or suggest in any manner that the license information is used to authenticate or verify the serial number of the cartridge, as asserted by the Examiner.

Nor does the relied-upon Takemoto passage at page 7, paragraph 121 mention or otherwise disclose, teach, or suggest in any manner that the license information is second data indicating correspondence between the first serial number with one of the plurality of serial numbers, wherein the second data includes a verification key, as recited in claim 1, much less one that is used to authenticate or verify the serial number of the cartridge, as asserted by the Examiner.

Rather, the relied-upon Takemoto passage at page 7, paragraph 121 merely indicates that the license information is encrypted, and that a decrypting process is provided, without providing any such detailed information as might otherwise disclose, teach, or suggest that the license information is second data indicating correspondence between the first serial number with one of the plurality of serial numbers, wherein the second data includes a verification key, as recited in claim 1.

Appellants have reproduced the relied-upon Takemoto passage at page 11, paragraph 176, as follows:

> [0176] In cases where the license presence/absence judgment information is encrypted, it is preferable that the decrypting means for decrypting the encrypted license presence/absence judgment information is provided.

Appellants respectfully submit that although the relied-upon Takemoto passage at page 11, paragraph 176 indicates that the license presence/absence judgment information is encrypted, and that it is preferable that a decrypting means for decrypting the encrypted license presence/absence judgment information is provided, such a disclosure clearly does not mention or otherwise disclose, teach, or suggest in any manner that the license information is used to authenticate or verify the serial number of the cartridge, as asserted by the Examiner.

Nor does the relied-upon Takemoto passage at page 11, paragraph 176 mention or otherwise disclose, teach, or suggest in any manner that the license information is second data indicating correspondence between the first serial number with one of the plurality of serial numbers, wherein the second data includes a verification key, as recited in claim 1.

Rather, the relied-upon Takemoto passage at page 11, paragraph 176 merely indicates that the license presence/absence judgment information is encrypted, and that a decrypting means is preferably provided, without providing any such detailed information as might otherwise disclose, teach, or suggest that the license information is second data indicating correspondence between the first serial number with one of the plurality of serial numbers, wherein the second data includes a verification key, as recited in claim 1.

Ruder does not overcome the deficiency of Takemoto as applied to claim 1, nor does the Examiner assert as much.

Accordingly, Takemoto and Ruder, taken alone or in combination, do not disclose, teach, or suggest second data indicating correspondence between the first serial number with one of the plurality of serial numbers, wherein the second data includes a verification key.

D. REPLY TO EXAMINER'S CONTENTIONS OF RESPONSE 4

In response to the Examiner' specific assertion "Response 4" (bottom portion of page 8 to upper portion of page 9 of the Examiner's Answer) that Takemoto discloses the aspect of obtaining the license being done on a repeated basis, Appellants respectfully submit as follows:

The Examiner relies on Takemoto at page 4, paragraph 73 for the surplus amount of imaging substance, and otherwise relies on Takemoto at page 14, paragraphs 222-223; page 15, paragraphs 232, 238, and 240-242; and page 16, paragraph 243.

Takemoto does not disclose, teach, or suggest a surplus amount of the imaging substance for substantially the same reasons as set forth above in Section A of the present Reply.

The Examiner asserts that a provisional license provides an amount to be used for a licensed period of time, two months, and that once the specific period has elapsed, the user is given the "rights to use 70% the residual."

The Examiner further asserts that along the way, the system again checks at 50% (asserted to be a "repeated basis"), and prompts the user to obtain a license for the toner amount, but if the user does not obtain a license, the system stops operation of the toner and again prompts the user to obtain licensing, which the Examiner asserts as disclosing that an aspect of checking for licensing is done on a repeated basis (see page 9 of the Examiner's Answer, emphasis added).

Firstly, Appellants respectfully submit that even if Takemoto discloses checking for licensing on a repeated basis, this does not disclose, teach, or suggest "obtaining the license being done on a repeated basis," as asserted by the Examiner (emphasis added).

In addition, Appellants respectfully submit that Takemoto does not otherwise disclose, teach, or suggest "obtaining the license being done on a repeated basis," as asserted by the Examiner.

Rather Takemoto discloses that once a cartridge is installed and it is determined that the cartridge is not licensed, the user is offered an opportunity to agree to pay for a license (Fig. 6, paragraphs 221-223).

If the user answers "will pay," electronic settlement is performed in one of two possible manners, as follows: If the user has an electronic settlement account, "electronic settlement

course A," depicted in Fig. 7 is employed, rendering the licensing status of the cartridge as "license available" (Fig. 7, page 14, paragraph 226 to page 15, paragraph 229).

If the user does not have an electronic settlement account, settlement is performed via "step B," depicted in Fig. 8, wherein the printer is allowed to operate under a "provisional license available" status for two months ("Elapse of Two Months" indicated in Fig. 8) until the settlement is completed, after which the license status of the cartridge becomes "license available" if the settlement is completed, or becomes "not licensed" if the settlement is not completed (Fig. 8, page 15, paragraphs 231-233).

Thus, at the present point in the Takemoto process, if the user agrees to pay for the license and has an electronic settlement account, path "A" of Fig. 6 is engaged, which is set forth in Fig. 7, and which does not include a two month period under the "provisional license available" status for two months. On the other hand, if the user does not have an electronic settlement account, path "B" of Fig. 6 is engaged, which is set forth in Fig. 8, wherein the user may operate the cartridge under the "provisional license available" status for two months, after which it is determined if the settlement is completed.

However, if the settlement has not been completed under path "B," the user is not again offered an opportunity to pay, and is not again allowed to operate the cartridge under the "provisional license available" status for two months.

Rather, Takemoto Fig. 8 discloses that the process ends, whether the cartridge is licensed or not, without offering another opportunity to pay or another two months of printer operation, which makes sense, since otherwise, a user could simply keep committing to pay for a license, each time obtaining two months to operate the cartridge, without ever having completed the settlement, and would thus effectively be allowed to use the entire amount of toner without ever

having paid for a license, which clearly militates against the object of the Takemoto invention, which is to collect and allocate costs between remanufacturers and collecting companies, and to conduct charge collection and license fee settlement for the exclusive rights of patents and trademarks, etc., accompanying the process cartridges.

In the case where the user does not choose to pay, the user is asked to accept that functions will be restricted (Fig. 6, page 15, paragraph 234), and if so, operation of the printer stops when the residual toner amount reaches 30%, after checking at 50% remaining toner whether the cartridge is licensed or not, (page 15, paragraphs 239 and 240, Fig. 9) explained as follows: When the residual toner level reaches 50%, a check is performed via the network to determine if a license is available, the user is again offered the opportunity to pay the fee, and if the user refuses, and the license status is "not licensed yet," the printer operation is stopped, and the user is instructed to get a license immediately or exchange the cartridge (page 15, paragraph 241 to page 16, paragraph 243, Fig. 9).

Thus, the user is offered an opportunity to obtain a license more than once only if the user elects each time to not pay for the license (Fig. 9). However, as set forth above, where the user agrees to pay, but the settlement is not completed, the user is not again offered to pay, and is not again allowed to operate the cartridge under the "provisional license available" status (Fig. 8).

Accordingly, Takemoto does not disclose, teach, or suggest "obtaining the license being done on a repeated basis," as asserted by the Examiner. Ruder also does not disclose, teach, or suggest an aspect pertaining to obtaining a license being done on a repeated basis.

E. CONCLUSION

For the foregoing reasons, Appellants submit that claims 1-90 are patentable in their present form. Accordingly, Appellants respectfully request that the Board reverse the final rejections of the appealed claims.

Respectfully submitted,

/Paul C. Gosnell/

Paul C. Gosnell
Registration No. 46,735

Attorney for Appellants

RKA14/ts

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TAYLOR & AUST, P.C.
12029 E. Washington Street
Indianapolis, IN 46229
Telephone: 317-894-0801
Facsimile: 317-894-0803